

**CASE**

**NUMBER:**

99 - 363

INDEX FOR CASE: 99-363  
WILLOWCREST DEVELOPMENT CORPORATION  
Transfer/Sale/Purchase/Merger  
TO CITY OF FRANKFORT, KENTUCKY

IN THE MATTER OF THE APPLICATION OF WILLOWCREST DEVELOPMENT,  
INCORPORATED FOR APPROVAL OF THE TRANSFER OF THE UTILITY  
OPERATIONS OF WILLOWCREST DEVELOPMENT, INCORPORATED TO THE  
CITY OF FRANKFORT, KENTUCKY AND FOR APPROVAL OF THE  
CESSATION OF UTILITY OPERATIONS BY WILLOWCREST DEVELOPMENT,  
INCORPORATED

SEQ NBR	ENTRY DATE	REMARKS
0001	09/03/99	Application.
0002	09/07/99	Acknowledgement letter.
0003	09/13/99	No deficiencies letter
0004	11/01/99	Final Order approving proposed transfer.



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**  
730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 99-363  
WILLOWCREST DEVELOPMENT CORPORATION

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on November 1, 1999.

Parties of Record:

Glenn D. Purdy  
President  
Willowcrest Development Corporation  
112 Tanglewood Drive  
Frankfort, KY. 40601

Honorable Mark R. Overstreet  
Attorney at Law  
Stites & Harbison  
421 West Main Street  
P. O. Box 634  
Frankfort, KY. 40602 0634

  
Secretary of the Commission

SB/hv  
Enclosure

Willowcrest in writing of its intention to refuse to renew Willowcrest's Kentucky Pollutant Discharge Elimination System ("KPDES") permit which expired on February 28, 1998. This action by the DEP would mean that Willowcrest would have to terminate its treatment of sewage as of the date of the expiration of its permit. Through a series of events that are all documented as a part of this Application involving Willowcrest, DEP, the City of Frankfort, and the County of Franklin, proper arrangements were made for the City of Frankfort to connect to the Willowcrest facilities and assume the responsibilities of providing sewage treatment for all of Willowcrest's customers by and through the municipal sewage system owned and operated by the City of Frankfort. In addition, this process included completion of all terms of the KPDES permit relating to the proper dismantling, razing and disposing of the Willowcrest package treatment facility. This also included receiving a transfer of authority from this Commission. DEP set a completion date of January 1, 2000.

Willowcrest must file with the Commission any and all normal and usual utility reports that reflect its activities up to the date of actual transfer of its facilities and functions to the City of Frankfort.

Having considered the evidence of record and the Application with documentation attached and being otherwise sufficiently advised, the Commission HEREBY ORDERS that:

1. The proposed transfer is approved.
2. Until the actual date of transfer of the Willowcrest facilities and responsibilities for wastewater sewage treatment to the City of Frankfort, the Commission shall retain jurisdiction over Willowcrest.

3. Willowcrest shall file all normal and usual utility reports with the Commission reflecting its activity up to the date of transfer as set out above and shall complete all requirements of its former KPDES permits and termination requirements as set out by the DEP regarding the proper disposal and destruction of its package treatment facility.

4. After full compliance with this Order, Willowcrest is authorized to cease operations as a utility.

Done at Frankfort, Kentucky, this 1st day of November, 1999.

By the Commission

ATTEST:

  
Executive Director



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

September 13, 1999

Glenn D. Purdy  
President  
Willowcrest Development Corporation  
112 Tanglewood Drive  
Frankfort, KY. 40601

Honorable Mark R. Overstreet  
Attorney at Law  
Stites & Harbison  
421 West Main Street  
P. O. Box 634  
Frankfort, KY. 40602 0634

RE: Case No. 99-363  
WILLOWCREST DEVELOPMENT CORPORATION

The Commission staff has reviewed your application in the above case and finds that it meets the minimum filing requirements. Enclosed please find a stamped filed copy of the first page of your filing. This case has been docketed and will be processed as expeditiously as possible.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,  
*Stephanie Bell*

Stephanie Bell  
Secretary of the Commission

SB/hv  
Enclosure



COMMONWEALTH OF KENTUCKY  
**PUBLIC SERVICE COMMISSION**

730 SCHENKEL LANE  
POST OFFICE BOX 615  
FRANKFORT, KY. 40602  
(502) 564-3940

September 7, 1999

Glenn D. Purdy  
President  
Willowcrest Development Corporation  
112 Tanglewood Drive  
Frankfort, KY. 40601

Honorable Mark R. Overstreet  
Attorney at Law  
Stites & Harbison  
421 West Main Street  
P. O. Box 634  
Frankfort, KY. 40602 0634

RE: Case No. 99-363  
WILLOWCREST DEVELOPMENT CORPORATION  
(Transfer/Sale/Purchase/Merger) TO CITY OF FRANKFORT, KENTUCKY

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received September 3, 1999 and has been assigned Case No. 99-363. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Bell".

Stephanie Bell  
Secretary of the Commission

SB/jc

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

SEP 03 1999

FILED

PUBLIC SERVICE COMMISSION

SEP 03 1999

PUBLIC SERVICE COMMISSION

CASE 99-363

In the Matter of:

The Application Of Willowcrest )  
 Development, Incorporated For Approval )  
 Of The Transfer Of The Utility Operations )  
 Of Willowcrest Development, Incorporated )  
 To The City Of Frankfort, Kentucky and For )  
 Approval of the Cessation of Utility Operations )  
 By Willowcrest Development, Incorporated )

**APPLICATION FOR TRANSFER OF CONTROL**

Willowcrest Development, Incorporated (“Willowcrest”) moves the Commission pursuant to KRS 278.020(4), KRS 278.020(5), 807 KAR 5:001, Section 9 for an order approving the transfer of the utility operations of Willowcrest to the City of Frankfort, Kentucky (“Frankfort”) and approving the cessation of utility operations by Willowcrest, and in support thereof state as follows:

**Parties**

1. Willowcrest is a corporation organized under the laws of the Commonwealth of Kentucky, with its principal place of business located at 112 Tanglewood Drive, Frankfort, Kentucky 40601. A copy of Willowcrest’s articles of incorporation and all amendments thereto previously was filed as an exhibit in Case No. 91-305, The Application of Willowcrest Development, Inc. for a Rate Adjustment Pursuant to the Alternative Rate Filing Procedure for Small Utilities. Willowcrest is a utility as that term is defined in KRS 278.010(3)(f); it provides sewerage services to Willowcrest subdivision, an unincorporated area of Franklin County, located south of

U.S. 60 and west of the corporate limits of Frankfort. In addition, Willowcrest provides sewerage services to several parcels adjoining Willowcrest subdivision. As of September 1, 1999, Willowcrest provides service to 138 customers.

2. Counsel for Willowcrest, Mark R. Overstreet, is the contact person for the utility. Counsel's telephone number is (502) 223-3477.

3. Willowcrest treats the wastewater collected by its system using a "package" sewage treatment plant it owns and operates and which is located at 218 Spruce Drive, Frankfort, Kentucky. The plant discharges the treated wastewater into an unnamed tributary of an unnamed tributary of South Benson Creek pursuant to Kentucky Pollution Discharge Elimination System Permit No. KY 0042552 issued by the Kentucky Cabinet for Natural Resources and Environmental Protection, Department for Environmental Protection, Division of Water ("Division of Water").

#### **The Transaction**

4. Frankfort is a second-class city and county seat of Franklin County, Kentucky. Its principal place of business is located at 315 West Second Street, Frankfort, Kentucky 40601. Frankfort is not a party to this application because it is a municipality and hence its sewerage operations are exempt from the jurisdiction of the Commission.

5. Through its Sewer Division, Frankfort provides sewerage services to residents of the city. When completed in 1999, the design capacity for Frankfort's wastewater treatment plant will be 9.9 million gallons per day. Its average daily flow is 6.0 million gallons per day.

6. By draft notice dated November 19, 1997 and transmitted to Willowcrest on December 19, 1997, the Division of Water notified Willowcrest that pursuant to 410 KAR 5:001, Section 1(16) it intended to deny Willowcrest's application to renew KPDES Permit No. KY 0042552. A copy of the draft notice is attached hereto as Exhibit A. The basis for the denial is that the Division's regulations require that sewage systems being serviced by package treatment plants be connected to comprehensive municipal systems where such systems are available. The Division concluded in the draft notice that Frankfort's system was available because, *inter alia*, Frankfort's system was located within one mile of the Willowcrest system and Frankfort's system had sufficient capacity to carry the additional flow.

7. By Objections And Comments filed on January 16, 1998, Willowcrest asked the Division of Water to reconsider its draft denial of the KPDES permit and to permit Frankfort, Franklin County and Willowcrest sufficient time to conclude negotiations and preparations for the transfer of the Willowcrest system to Frankfort. A copy of the Objections and Comments filed by Willowcrest is attached hereto as Exhibit B.

8. On April 15, 1999, the Division of Water responded to Willowcrest's Objections and Comments, denied Willowcrest's application for permit renewal, and ordered Willowcrest to connect to Frankfort's sewage system on or before June 30, 1999. A copy of the Division of Water's Response and Denial is attached hereto as Exhibit C.

9. On May 13, 1999, Willowcrest filed a Petition seeking review of the Division of Water's denial of its application to renew its KPDES permit. A copy of the Petition (without exhibits) is attached hereto as Exhibit D.

10. Willowcrest and the Division of Water executed in June and July, 1999 a settlement agreement resolving the issues raised in Willowcrest's Petition. On July 8, 1999, the Secretary of the Natural Resources and Environmental Protection Cabinet approved the settlement agreement. A copy of the settlement agreement as approved is attached hereto as Exhibit E. Under the terms of the settlement agreement, Willowcrest may continue to operate its package treatment plant and discharge treated wastewater until and including January 1, 2000. By that date, the Willowcrest system must be connected to Frankfort's comprehensive system.

11. Willowcrest and Frankfort have agreed that upon completion of the construction work by Frankfort required for the transfer, Willowcrest will transfer its sewage system to Frankfort and Frankfort will connect the Willowcrest system to Frankfort's comprehensive municipal system. The terms of the agreement are described in a letter dated May 13, 1999 from counsel for Willowcrest to Dennis Minks, Director of Public Works, City of Frankfort, and Steve Kennedy, Deputy County Judge-Executive of Franklin County. A copy of the letter is attached hereto as Exhibit F.

12. Upon transfer of its system to Frankfort, Willowcrest will cease operation as a utility.

13. As part of the transfer of the Willowcrest system to Frankfort, many of the lateral and trunk lines comprising the Willowcrest system will be replaced or repaired,

and a main line, forced main and pump station will be constructed by Frankfort. In addition, the existing package plan will be dismantled and filled. Willowcrest, in turn, will grant Frankfort without charge any easements it might have with respect to the existing lateral and main lines, as well as certain easements over property it owns in the rear of the subdivision.

#### **Compliance with Statutory and Regulatory Requirements**

14. Frankfort has the technical and managerial abilities to provide reasonable service to the customers of the Willowcrest system. Frankfort, and its predecessors, have operated a sewerage system in the City of Frankfort since 1954. It currently provides sewerage services to approximately 26,000 customers in the City of Frankfort. Frankfort currently employs 280 employees, including 27 who work in its Sewer Division. Frankfort possesses sufficient capacity to handle the flow from the Willowcrest system. Indeed, with the completion of the current expansion later this year, Frankfort will have the capacity to treat 9.9 million gallons per day, far in excess of its average flow of 6.0 million gallons per day.

15. As evidenced by the audited financial statements of the City of Frankfort, Frankfort has the financial capacity and ability to provide reasonable service to the customers of the Willowcrest system. The relevant portions of the City of Frankfort's audited financial statements, pages 57-63, containing the balance sheets, income statements and cash flow statements for the Sewer Division, are attached hereto as Exhibit G.

16. The transfer by Willowcrest of its system, and concomitant cessation of operations by Willowcrest as a utility is in accordance with the law, for a proper purpose and consistent with the public interest. The transfer is being made to comply with the requirements of the Division of Water, and its order that Willowcrest connect its system to Frankfort' system on or before January 1, 2000. Absent the transfer and connection, Willowcrest will be forced to discontinue discharging treated wastewater from its package plant beginning January 2, 2000, and thus will be compelled to terminate sewerage service to its customers. In addition, as part of the transfer, a portion of the Willowcrest system is being rebuilt.

#### Communications

17. The Applicant respectfully requests that all communications be addressed to:

Mark R. Overstreet  
Stites & Harbison  
421 West Main Street  
P.O. Box 634  
Frankfort, Kentucky 40602-0634

COUNSEL FOR WILLOWCREST DEVELOPMENT, INCORPORATED

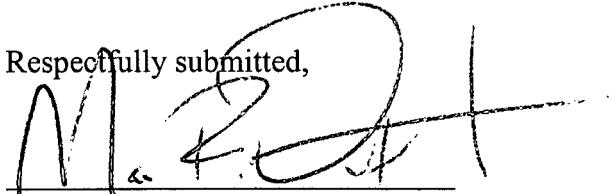
WHEREFORE, Willowcrest Development, Incorporated respectfully requests that the Commission enter an Order:

1. Granting authority for Willowcrest Development, Incorporated to transfer its utility operations to the City of Frankfort;
2. Granting Willowcrest Development, Incorporated authority to cease operations as a utility;

3. Granting such further relief as may be required.

This 3<sup>rd</sup> day of September, 1999.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. R. Overstreet', written over a horizontal line.

Mark R. Overstreet  
STITES & HARBISON  
421 West Main Street  
P.O. Box 634  
Frankfort, Kentucky 40602-0634  
Telephone: (502) 223-3477  
COUNSEL FOR WILLOWCREST  
DEVELOPMENT CORPORATION

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

SEP 03 1999

FILED

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PUBLIC SERVICE COMMISSION

CASE 99-363

In the Matter of:

The Application Of Willowcrest )  
 Development, Incorporated For Approval )  
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 To The City Of Frankfort, Kentucky and For )  
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 By Willowcrest Development, Incorporated )

**APPLICATION FOR TRANSFER OF CONTROL**

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COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

**DRAFT**

**DEC 19 1997**

STATEMENT OF BASIS

KPDES No.: KY0042552    Permit Writer: Sue L. Davis    Date: November 19, 1997

Facility Name: Willowcrest Subdivision

Facility Location: 218 Spruce Drive  
Frankfort, Franklin County, Kentucky

Permitting Action: This is a permit denial.

Permit Duration: Not applicable. The current permit expires February 28, 1998.

Receiving Stream: Unnamed tributary at mile point 0.15 to Unnamed tributary at mile point 0.68 to Unnamed tributary at mile point 1.75 to South Benson Creek at mile point 5.40

Stream Segment Use Classification: Warmwater Aquatic Habitat and Primary/Secondary Contact Recreation

Stream Low Flow Condition: 0.00 cfs

Justification of Permit Denial:

1. New regulations became effective on May 14, 1997, which define sewer availability in 401 KAR 5:001, Section 1(16). "Available" for an existing plant means located within a planning area and sewers are within one mile, by the nearest feasible route of connection, to a point where the downstream sewer has the capacity to carry the additional flow.
2. The Willowcrest Subdivision is within the planning area of the City of Frankfort.
3. The City of Frankfort comprehensive sewage system is located within one (1.0) mile of the Willowcrest plant with adequate capacity to carry the additional flow.
4. The division issued approval of this connection on January 15, 1997, to the City of Frankfort.
5. The denial makes it the responsibility of the permittee (Willowcrest Development Corporation) to immediately proceed with arrangements to connect to the City of Frankfort system and eliminate the Willowcrest facility in accordance with the Schedule of Compliance of the currently effective KPDES permit for Willowcrest. The construction permit for this facility also requires plant elimination and connection when a comprehensive sewer system becomes available.

(Disk #3/jk)





1 5 1998

**STITES & HARBISON**  
421 WEST MAIN STREET  
P.O. BOX 634  
FRANKFORT, KENTUCKY 40602-0634  
(502) 223-3477  
FACSIMILE: (502) 223-4124  
E-MAIL: "MOVERSTREET@STITES.COM"

**Mark R. Overstreet**

January 16, 1998

Department for Environmental Protection  
Division of Water  
KPDES Branch  
Frankfort Office Park  
14 Reilly Road  
Frankfort, Kentucky 40601

Att: Inventory and Data Management Section

Re: Willowcrest Development Corporation  
NPDES No.: KY0042552  
(December 19, 1997 Draft Notice of Intent to Deny NPDES Permit)

*Via Hand Delivery and U.S. Mail*

Dear Gentlemen and Ladies:

This firm represents Willowcrest Development Corporation ("Willowcrest") and files this comment and objection in response to the Department's draft notice of its intent to deny Willowcrest's KPDES permit. The basis provided for the proposed denial is that "[t]he City of Frankfort comprehensive sewage system is located within one (1.0) mile of the Willowcrest plant with adequate capacity to carry the additional flow." For the reasons set forth below, Willowcrest respectfully requests that the NPDES permit be issued for such period as is required to enable Franklin County and the City of Frankfort to take over its system.

In approximately 1992, Willowcrest first offered to donate its system to the City of Frankfort. Thereafter, the City and County began working to develop a plan for assuming responsibility for the operation of the Willowcrest system, including testing and viewing the system's lines, assessing community sentiment and beginning the engineering work required to tie the Willowcrest system into the City's system. Willowcrest has been and remains ready to donate its system. In fact, because of his declining health, Glenn D.

# STITES & HARBISON

January 16, 1998  
Page 2

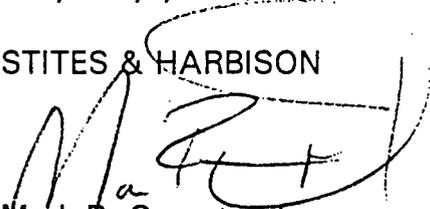
Purdy, Willowcrest's shareholder, has been anxious to transfer the system for several years.

Upon receiving the division's draft notice of intent to deny, I contacted Dennis Minks, Director of Public Works for the City of Frankfort, Judge David Hughes, Franklin County Judge Executive, Jim Boyd, Franklin County Attorney, and Jennie Smither, Franklin County Magistrate to determine the status of the City and County's efforts. As Mr. Minks states in his letter of January 9, 1998, a copy of which is enclosed, although the City is prepared to tie the Willowcrest system into the City's existing system, certain conditions first must be met. Fulfillment of these conditions in turn depend upon the County's acquisition of easements from property owners in the Hawkheegan area (which is included in the County's plans) and the securing of financing. Magistrate Smither indicated in my January 9, 1998 telephone conversation with her that she expects the County to have fulfilled all of the conditions by the end of Summer, 1998. Willowcrest is without the means to judge the accuracy of Magistrate Smither's estimate.

Until the City and County complete the actions described in Mr. Minks letter Willowcrest will not be permitted to transfer the system. In addition, I have been informed by counsel for the Kentucky Public Service Commission that Willowcrest must obtain approval from the Commission pursuant to KRS 278.020(4),(5) prior to transferring the system. Such approval normally may be obtained within 60 days of application. Accordingly, Willowcrest respectfully requests that its KPDES permit be renewed for until such time as is required to permit Willowcrest to transfer its system (including completion by the City and County of the actions described in Mr. Minks' letter).

Very truly yours,

STITES & HARBISON



Mark R. Overstreet

/MRO

cc: R. Bruce Scott, P.E.  
Sue L. Davis

# City of Frankfort

315 West Second Street, P.O. Box 697  
Frankfort, Kentucky 40602  
(502) 875-8500

**Mayor**  
William I. May, Jr.

**Commissioners**  
Derrick W. Graham  
Brenda J. Duvall  
Robert Roach  
Huston Wells

January 9, 1998

Mr. Bruce Scott, P.E.  
Division of Water  
14 Reilly Road  
Frankfort, Kentucky 40601

Re: Willowcrest Package Treatment Plant

Dear Mr. Scott:

I have been requested by Mr. Purdy's (owner of Willowcrest Subdivision Wastewater Treatment Plant) attorney to inform you of the proposed sewer project for the area.

The City has agreed with Franklin County Fiscal Court to construct a gravity interceptor sewer from the existing Cardwell Lane pump station, through Willowcrest to the area of the Willowcrest Wastewater Treatment Plant. At the wastewater treatment plant site, the existing wastewater treatment plant would be abandoned and a new lift station and force main constructed back up to Cardwell Lane. The project also includes a gravity sewer system from Hawkeegan subdivision to the proposed Willowcrest Pump Station.

A condition of the City joining in this project is that the existing Willowcrest sewer lines will be rehabilitated to eliminate excessive infiltration and inflow.

The final plans have been given Division of Water approval from the Construction Branch. The County, to our knowledge, is proceeding with easement acquisition and locating construction funding. Until these items are resolved the project will not be bid.

Please feel free to contact me at 875-8563 if you have any questions.

Very truly yours,



Dennis E. Minks, P.E.  
Director of Public Works

cc: Mr. Mark Overstreet



JAMES E. BICKFORD  
SECRETARY



PAUL E. PATTON  
GOVERNOR

COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION  
FRANKFORT OFFICE PARK  
14 REILLY RD  
FRANKFORT KY 40601

APR 15 1999

The Honorable Mark R. Overstreet  
Stites & Harbison  
P.O. BOX 634  
Frankfort, Kentucky 40602-0634

Re: Willowcrest Subdivision  
NPDES No.: KY0042552  
Franklin County, Kentucky

Dear Attorney Overstreet:

Your comment concerning the above-referenced draft permit has been reviewed and a response prepared in accordance with Kentucky Pollutant Discharge Elimination System (KPDES) regulation 401 KAR 5:075, Section 12. The comment has been briefly described below and our response to that comment follows:

**COMMENT:** You commented upon behalf of your client and attached a letter from the city of Frankfort. Your client requests a reissuance of the current permit until such time as the system will be taken over by and/or transferred to the city of Frankfort and/or Franklin County. The Public Service Commission requires approval of transfers and may take 60 days to complete the approval. The city will connect the system after the county has obtained easements. The city requires sewer rehabilitation to remove excessive inflow and infiltration prior to connection.

You commented, "Willowcrest has been and remains ready to donate its system. In fact, because of his declining health, Glenn D. Purdy, Willowcrest's shareholder, has been anxious to transfer the system for several years."

**RESPONSE:** The permit denial stands; however, the effective date of the denial will be June 30, 1999. The connection should be made by that time according to the implied schedule and barring any easement problems. The permittee, its successors, and/or assigns, shall operate the plant under the conditions of the current permit until connection is made to comprehensive sewer system. The current permit has been extended to cover the facility operation until June 30, 1999.

Any demand for a hearing on the response to comment shall be filed in accordance with the procedures specified in KRS 224.10-420, 224.10-440, 224.10-470, and any regulations promulgated thereto. Any person aggrieved by the issuance of a permit final decision may demand a hearing pursuant to KRS 224.10-420(2) within thirty (30) days from the date of the issuance of this letter. Two copies of request for hearing should be submitted in writing to the Natural Resources and Environmental Protection Cabinet, Office of Administrative Hearings, 35-36 Fountain Place, Frankfort, Kentucky 40601 and the Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Water, 14 Reilly Road, Frankfort, Kentucky 40601. For your record keeping purposes, it is recommended that these requests be sent by certified mail. The written request must conform to the appropriate statutes referenced above.



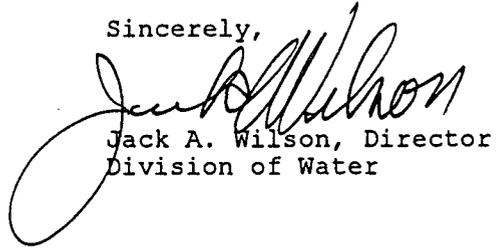
RESPONSE TO COMMENTS

Hon. Mark R. Overstreet  
Willowcrest Subdivision/KY0042552  
Page Two

If you have any questions regarding this response, please contact me at (502) 564-2225, extension 499, or Sue L. Davis, KPDES Branch, at (502) 564-2225, extension 468.

Further information on procedures and legal matters pertaining to the hearing request may be obtained by contacting the Division of Hearings, at (502) 564-7312.

Sincerely,



Jack A. Wilson, Director  
Division of Water

JAW:SLD:pg

c: Glen D. Purdy, President, Willowcrest Development Corporation  
Dennis E. Minks, P.E., Director of Public Works, City of Frankfort  
Teresa Barton, Franklin County Judge Executive  
Frankfort Regional Office

D

RECEIVED

FILED

Commonwealth of Kentucky  
Natural Resources and Environmental Protection Cabinet  
Office of Administrative Hearings

MAY 13 1999

CENTRAL OFFICE  
DIVISION OF WATER

Office of Administrative Hearings

**PETITION OF WILLOWCREST DEVELOPMENT CORPORATION**

Willowcrest Development Corporation

PETITIONER

Vs.

Natural Resources and Environmental Protection Cabinet,  
Department for Environmental Protection,  
Division of Water

RESPONDENT

Willowcrest Development Corporation ("Willowcrest") petitions pursuant to KRS 224.10-420, KRS 224.10-440, KRS 224.10-470, 401 KAR 100:010, Section 13 and all other relevant statutes and regulations for a review of and hearing on the decision by the Division of Water to deny its Kentucky Pollution Discharge Elimination System, and in support thereof states:

1. Willowcrest (a/k/a Willowcrest Subdivision) is the holder of Kentucky Pollution Discharge Elimination System Permit No. KY0042552 in connection with its operation of a package sewage treatment system for the residents of Willowcrest Subdivision, and certain outlying properties. The Willowcrest system provides sewerage services for more than 100 customers in an unincorporated area of Franklin County, Kentucky.

2. On December 19, 1997, the Division of Water issued a draft denial of the renewal of Willowcrest's KPDES permit and directed that the Willowcrest system be connected to the existing City of Frankfort system. A copy of the draft denial is attached as Exhibit A.

3. By letter dated January 16, 1998, Willowcrest provided comments to the draft denial and asked that the permit be extended for a period sufficient to permit the construction of improvements necessary to make the connection. A copy of Willowcrest's response is attached hereto as Exhibit B.

4. By letter dated April 15, 1999 the Division of Water provided a response to Willowcrest's comments and notified Willowcrest that the permit denial would be sustained. The Division did agree, however, to extend the permit to June 30, 1999 to allow the City and County to make the connection to the Willowcrest system. A copy of the Response and Notice of denial is attached as Exhibit C.

5. By letters dated April 14, 1999, but received by Willowcrest on the same date as the Response and Notice of Denial, the Division directed the City of Frankfort and Franklin County to connect Willowcrest system to the City system. A copy of the letters are attached as Exhibit D.

6. The basis for the denial and the Division's Response to the Comment by Willowcrest was that "the city of Frankfort comprehensive sewer system is available. Frankfort has adequate capacity and can adequately treat the wastes."

7. Contrary to the premise of the Division of Water's denial, the City of Frankfort's comprehensive sewer system is not available. The two systems are physically separate and prior

to a connection being made a portion of the Willowcrest system must be rehabilitated, and a pump station, main line and a force main must be constructed.

8. Contracts for the work have been awarded or are expected to be awarded on or about May 24, 1999. The County Judge Executive has been authorized to execute a memorandum of understanding that will permit the City to provide sewerage services in unincorporated portions of the County, including the Willowcrest area. A copy of the relevant portion of an article appearing in the May 9, 1999 *State Journal* and describing recent actions by the City of Frankfort and Franklin County are attached as Exhibit E.

9. The work necessary to permit the connection of the two systems, thereby making the City of Frankfort's system available for the first time, is expected to be completed within approximately six months. Thus, the connection cannot be made, and the City of Frankfort's system will not be available, prior to June 30, 1999, the deadline for connection specified by the Division of Water. There is no other system to which Willowcrest can connect on or before June 30, 1999.

10. Prior to the Willowcrest system being connected to the City of Frankfort's system, Willowcrest must receive approval from the Public Service Commission of Kentucky pursuant to KRS 278.020(4) and KRS 278.020(5). An Application for such approval is expected to be filed in the immediate future, but approval may not be received prior to June 30, 1999.

11. If the permit is not extended, Willowcrest will be forced to terminate sewer service to its customers, who have no other means of disposing of their sanitary sewerage, or risk

violating the Division's order or the terms of its KPDES permit, thereby injuring Willowcrest and its customers.

12. The Division of Water's denial of Willowcrest's permit, and specifically its failure to extend the permit for a period sufficient to allow the necessary improvements to be constructed, is contrary to law and fact and injurious to Willowcrest in that:

(a) The City of Frankfort's comprehensive sewer system is not "available" and will not be available for approximately six months;

(b) The denial is contrary to the division's regulations and applicable statutes;

(c) The denial is in excess of the Division's authority under law;

(d) To the extent the applicable regulations require the denial of the Willowcrest permit they are in excess of the Division's statutory authority;

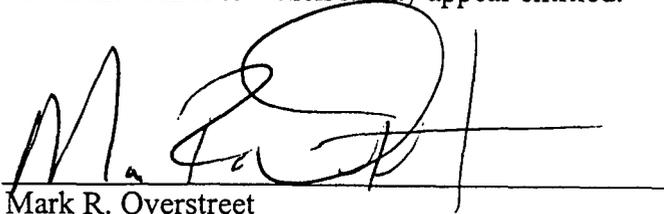
(e) The denial is arbitrary in violation of the Constitution of Kentucky;

(f) The denial is otherwise is otherwise contrary to law or fact.

Wherefore, Willowcrest Development Corporation respectfully requests:

1. That the Division of Water's denial of Willowcrest's KPDES be rescinded;
2. That the permit be extended for a sufficient period to allow the construction of the necessary improvements and receipt of the required authorization so that Willowcrest may be connected with the City of Frankfort's system.

3. That Willowcrest be awarded all further relief to which it may appear entitled.

A handwritten signature in black ink, appearing to read 'M. Overstreet', is written over a horizontal line. The signature is stylized with a large loop and a long horizontal stroke extending to the right.

Mark R. Overstreet  
STITES & HARBISON  
421 West Main Street  
P.O. Box 634  
Frankfort, Kentucky 40602-0634  
Telephone: (502) 223-3477  
COUNSEL FOR PETITIONER, WILLOWCREST  
DEVELOPMENT CORPORATION



COMMONWEALTH OF KENTUCKY  
NATURAL RESOURCES AND ENVIRONMENTAL  
PROTECTION CABINET  
FILE NO. DOW-24497-039

FILED

JUL 08 1999

OFFICE OF ADMINISTRATIVE HEARINGS

WILLOWCREST DEVELOPMENT CORPORTION

PETITIONER,

VS.

AGREED ORDER OF DISMISSAL  
OF KPDES PERMIT CHALLENGE

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

RESPONDENT.  
KPDES Permit No. KY0042552

\*\*\*\*\*

WHEREAS, the Natural Resources and Environmental Protection Cabinet (hereinafter "the Cabinet") is charged with the statutory duty of implementing KRS Chapter 224 and the regulations promulgated pursuant thereto;

WHEREAS, the Willowcrest Development Corporation. (hereinafter "Willowcrest") operates a wastewater treatment plant located in Franklin County, Kentucky; KPDES Permit No. KY0042552;

WHEREAS, the Division of Water has denied this permit pursuant to 401 KAR 5:001, Section 116 and 401 KAR 5:006 because the municipal sewer system of the City of Frankfort is available to treat this waste;

WHEREAS, Willowcrest has filed a Petition for Hearing requesting an additional amount of time to connect to the City of Frankfort's comprehensive sewer system;

WHEREAS, all parties wish to resolve the Petitioner's Petition for an Administrative

Hearing satisfying all conditions therein.

**NOW THEREFORE**, in the interest of resolving the claims and controversies in this matter, Petitioner and the Cabinet hereby consent to entry of this Order and agree as follows:

1. Willowcrest shall be given to and including January 1, 2000 to connect to the City of Frankfort's Regional Sewer System.
2. Prior to connection, Willowcrest shall comply with KRS 224 and 401 KAR Chapter 5 and all conditions of its former permit.
3. Willowcrest shall cease its discharge to the waters of the Commonwealth on or before January 1, 2000.
4. This Agreed Order shall be a final order of the Cabinet and this appeal shall be dismissed upon entry of the Order by the Secretary. Entry of this Agreed Order of Dismissal does not preclude the Cabinet from issuing, modifying, revoking and reissuing, denying, revoking or termination the KPDES permit in accordance with 401 KAR 5:050 through 5:095, inclusive. If the Cabinet undertakes to issue, modify, revoke and reissue, deny, revoke or terminate the KPDES permits, Petitioner retains all its defenses and rights to contest such action, except that Petitioner shall not use this Agreed Order of Dismissal as a defense.
5. The Agreed Order may not be amended except by a written order of the Cabinet's Secretary. Petitioner may request an amendment by writing the Division for Water at 14 Reilly Road, Frankfort, Kentucky 40601 and stating the reasons for the request. If granted, the amended Agreed Order shall not affect any provision of this Agreed Order unless expressly provided in the amended Agreed Order.
6. Petitioner waives its right to any hearing on the matters admitted herein. However, failure by Petitioner to comply strictly with the terms of this Agreed Order shall be grounds for the

Cabinet to seek enforcement of this Agreed Order in Franklin Circuit Court and to pursue any other appropriate administrative or judicial action under KRS Chapter 224 and the regulations promulgated pursuant thereto. The Cabinet does not, by its consent to the entry of this Agreed Order, warrant or aver in any manner that Petitioner's complete compliance with this Agreed Order will result in compliance with the provisions of KRS Chapter 224 or 223 and the regulations adopted pursuant thereto. Notwithstanding the Cabinet's review and approval of any plans formulated pursuant to this Agreed Order, Petitioner shall remain solely responsible for compliance with the terms of KRS Chapter 224 or 223 and the regulations adopted pursuant thereto, this Agreed Order and any permit requirements.

7. The provisions of this Agreed Order shall apply to and be binding upon Petitioner. The acts or omissions of Petitioner's officers, directors, agents, and employees shall not excuse the performance of any provision of this Agreed Order. The Cabinet reserves the right to seek enforcement of this Agreed Order against the successors and assigns of Petitioner, and Petitioner reserves its defenses thereto. Petitioner shall give notice of this Agreed Order to any purchaser, lessee or successor in interest prior to the transfer of ownership and/or operation of any of its now-existing facilities occurring prior to termination of this Agreed Order, shall notify the Cabinet that such notice has been given, and shall follow all statutory and regulatory requirements for a transfer. Whether or not a transfer takes place, Petitioner shall remain responsible for compliance with the Order.

#### FORCE MAJEURE

8. Willowcrest shall perform the requirements of this Agreed Order within the time limits set forth or approved herein, unless the performance is prevented or delayed solely by events which constitute a force majeure, in which event the delay in performance shall be excused and no

performance or stipulated penalty shall be assessed. A force majeure is defined as any event arising from causes not reasonably foreseeable and beyond the control of Willowcrest, or Willowcrest consultants and contractors, which could not be overcome by due diligence and which delays or prevents performance by a date required by this Agreed Order. Force majeure events do not include unanticipated or increased costs of performance, changed economic or financial conditions, normal precipitation events, the failure by Petitioner's contractor to perform, or the failure by Petitioner's supplier to deliver.

9. Willowcrest shall notify the manager of the enforcement branch of the Division of Water by telephone by the end of the next business day and in writing within ten (10) business days after it becomes aware of events which it knows or should know constitute a force majeure. The notice shall estimate the anticipated length of delay, including necessary demobilization and remobilization, its cause, measures taken or to be taken to minimize the delay and an estimated timetable for implementation of these measures. Failure to comply with the notice provision of this section shall be grounds for the Cabinet to deny an extension of time for performance. If any event is anticipated to occur which may cause a delay in meeting the requirements of this Agreed Order, Willowcrest shall notify the manager of the enforcement branch of the Division of Water by telephone by the end of the next business day and in writing within ten (10) business days of learning of the possibility of a force majeure event, if the event has not already occurred. The Cabinet will respond in writing to any written notice received.

10. If Willowcrest demonstrates to the Cabinet that the delay has been or will be caused by a force majeure event, the Cabinet will extend the time for performance for that element of the Agreed Order for a period at least equal to the delay resulting from such circumstances. This shall be accomplished through an Agreed Order amending this Agreed Order. The amended Agreed Order

may alter the schedule for performance or completion of other tasks required by this Agreed Order.

If a dispute over the occurrence or impact of a force majeure event cannot be resolved, the Cabinet reserves its right to seek a penalty under this Agreed Order and Willowcrest reserves its right to seek a hearing under KRS 224.10-420(2). If Willowcrest contests its liability for penalties, it shall have the burden of proof that a violation of this Agreed Order was caused by a force majeure event.

11. This Agreed Order shall be of no force and effect unless and until it is entered by the Secretary or his designee as evidenced by his signature thereon.

12. Should this Agreed Order contain any date by which Petitioner is to take any action, and should the Secretary enter the Agreed Order after that date, then Petitioner is nonetheless obligated to have taken the action by the date contained in this Order.

HAVE SEEN AND AGREED TO BY:

FILE NO. DOW-24497-039

*Willowcrest Development Association by Glenn D. Purdy, President June 23, 1999*  
Petitioner Date

Petitioner

Date

*Mark R. Overstreet*

*June 22, 1999*

Mark R. Overstreet, Counsel for Petitioner

Date

APPROVAL RECOMMENDED BY:

*Jack A. Wilson*

*June 30, 1999*

Jack A. Wilson, Director  
Division of Water

Date

*Brenda Gail Lowe*

*June 29, 99*

Brenda Gail Lowe, Attorney  
Office of Legal Services

Date

*Barbara A. Foster*

*7-6-99*

Barbara A. Foster, General Counsel  
Department of Law

Date

HAVE SEEN:

Steve Blanton  
Steve Blanton, Hearing Officer  
Office of Administrative Hearings

7/7/99  
Date

ORDER

WHEREFORE, the foregoing Agreed Order is entered as the final Order of the Natural Resources and Environmental Protection Cabinet this 8<sup>th</sup> day of July, 1999.

NATURAL RESOURCES AND  
ENVIRONMENTAL PROTECTION CABINET

James E. Bickford  
JAMES E. BICKFORD, SECRETARY

CERTIFICATE OF SERVICE

I hereby certify that on the 8<sup>th</sup> day of July, 1999,  
a true and accurate copy of the foregoing AGREED ORDER  
OF DISMISSAL was mailed, postage prepaid, to the  
following:

Willowcrest Subdivision  
218 Spruce Drive  
Frankfort, Kentucky 40601

Hon. Mark R. Overstreet  
Stites and Harbison  
421 West Main Street  
P.O. Box 634  
Frankfort, Kentucky 40602-0634

hand-delivered to:

Hon. Brenda Gail Lowe  
Natural Resources and  
Environmental Protection Cabinet  
Office of Legal Services  
5<sup>th</sup> Floor, Capital Plaza Tower  
Frankfort, Kentucky 40601

*Alberta E. Peyton*  
DOCKET COORDINATOR

DISTRIBUTION

Jack A. Wilson, DOW

*Hearing Officer, SB*  
JK

aowillowcrest-bgl gd 5-20-99

*Order File*

LTS

GDM

ALL-STATE LEGAL SUPPLY CO. 1-800-222-0510 EDS11 RECYCLED



# STITES & HARBISON

ATTORNEYS

May 13, 1999

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(502) 223-4124 Fax  
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moverstreet@stites.com

BY HAND DELIVERY

Dennis Minks  
Director of Public Works  
City of Frankfort  
315 West Second Street  
Frankfort, Kentucky 40601

Steve Kennedy  
Deputy County Judge Executive  
Franklin County  
313 West Main Street  
Frankfort, Kentucky 40601

RE: Willowcrest Development Corporation

Gentlemen:

Thank you for taking the time yesterday to discuss the City and County's plans with respect to the Willowcrest sewer system. As I discussed with Dennis today, Willowcrest Development Corporation ("Willowcrest") is willing to grant the access and utility easements required by the City over the tract in the rear of the subdivision on which the package treatment plant currently is located. In addition, Willowcrest is willing to transfer to the City any easements it might have with respect to the existing laterals and main lines. These easements will be granted or transferred without the payment of any money by the City or the County. In return, Willowcrest will not be required to make any payment to the City or County in connection with this project.

Dennis also indicated the City will disassemble and fill the existing package treatment facility and permit Willowcrest to remove its equipment. In addition, Willowcrest will continue to have access to its property in the rear of the subdivision, including the tract on which the package plant is located.

**STITES & HARBISON**

ATTORNEYS  
Dennis Minks  
Steve Kennedy  
May 13, 1999  
Page 2

Thank you for your assistance in this matter.

Very truly yours,

  
Mark R. Overstreet

cc: Glenn D. Purdy

PU085:000PU:2143:FRANKFORT



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100% RECYCLED

CITY OF FRANKFORT  
 AUDITED FINANCIAL STATEMENTS  
 June 30, 1998

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# Charles T. Mitchell Company, LLP

Certified Public Accountants

201 WEST MAIN, P.O. BOX 698  
FRANKFORT, KENTUCKY 40602-0698  
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BERNADETTE SMITH, C.P.A.  
KIM FIELD, C.P.A.

CHARLES T. MITCHELL, C.P.A.  
CONSULTANT

Honorable William May, Mayor  
Members of The City Commission  
City of Frankfort, Kentucky

## Independent Auditors' Report

We have audited the accompanying general purpose financial statements and the combining and account group financial statements of City of Frankfort, Kentucky, as of and for the year ended June 30, 1998, and the individual fund financial statements of the City as of and for the years ended June 30, 1998 and 1997, as listed in the table of contents. These financial statements are the responsibility of City of Frankfort, Kentucky management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the general purpose financial statements referred to in the first paragraph present fairly, in all material respects, the financial position of the City of Frankfort, Kentucky as of June 30, 1998, and the results of its operations and cash flows of its proprietary fund types for the year then ended in conformity with generally accepted accounting principles. Also, in our opinion, the combining and individual fund and account group financial statements as of June 30, 1998 and for the year then ended and the individual fund financial statements as of June 30, 1997 and for the year then ended present fairly, in all material respects, the financial position of each of the individual funds and account groups of City of Frankfort, Kentucky as of June 30, 1998 and the financial position of each of the individual funds as of June 30, 1997 and the results of operations of such funds and the cash flows of its proprietary fund for the years then ended in conformity with generally accepted accounting principles.

In accordance with Government Auditing Standards, we have also issued our report dated November 9, 1998 on our consideration of the City of Frankfort's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grants.

Our audit was performed for the purpose of forming an opinion on the general purpose financial statements of the City of Frankfort, taken as a whole and on the combining and individual fund and account group financial statements. The accompanying schedules of expenditures of federal awards is presented for purposes of additional analysis as required by U.S. Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," and is not a required part of the financial statements. Such information has been subjected to the auditing procedures applied in the audit of the general purpose, combining and individual fund and account group financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the financial statements of each of the respective individual funds and account groups taken as a whole.

Charles T. Mitchell Co.

November 9, 1998

CITY OF FRANKFORT  
GENERAL PURPOSE FINANCIAL STATEMENTS  
AS OF AND FOR THE YEAR ENDED JUNE 30, 1998

ENTERPRISE FUNDS

Enterprise Funds are established to account for the acquisition, operations, and maintenance of the Government's facilities and services which are entirely or predominantly self-supported by user charges. The Government has the following enterprise operation.

SEWER DEPARTMENT

The Sewer Department accounts for revenues received for sewer services for the residents of the city. All activities necessary to provide such services are accounted for in this fund, including, but not limited to, administration, operations, maintenance, financing and related debt service, and billing and collection.

COMPONENT UNIT  
CITY OF FRANKFORT - FRANKLIN COUNTY  
TOURIST AND CONVENTION COMMISSION

The Tourist Commission accounts for revenues received for transient room tax to be used to promote recreational, convention, and tourist activity.

CITY OF FRANKFORT  
COMBINING BALANCE SHEETS  
ENTERPRISE FUND AND DISCRETELY PRESENTED COMPONENT UNIT  
June 30, 1998 and 1997

	Sewer	Component Unit  Tourist Commission	TOTAL Reporting Entity (Memorandum Only)	
			June 30, 1998	(Restated) June 30, 1997
<b>ASSETS</b>				
Cash	\$ 1,255,443	\$ 45,970	\$ 1,301,413	\$ 998,591
Investments	1,333,664		1,333,664	1,125,000
Receivables				
User Fees	295,862		295,862	288,233
Accrued Interest	25,926		25,926	24,848
Other		2,500	2,500	
Inventory	194,760		194,760	141,806
Restricted Assets				
Cash and Cash Equivalents	4,712,535		4,712,535	3,545,690
Investments	499,861		499,861	1,335,040
Accrued Interest	1,849		1,849	14,379
Deferred Charges	2,022		2,022	7,988
Property, Plant and Equipment	12,783,769	39,066	12,822,835	12,223,559
Less: Accumulated Depreciation	<u>(7,282,192)</u>	<u>(15,434)</u>	<u>(7,297,626)</u>	<u>(6,717,485)</u>
<b>Total Assets</b>	<u>\$13,823,499</u>	<u>\$ 72,102</u>	<u>\$13,895,601</u>	<u>\$12,987,649</u>
<b>LIABILITIES AND FUND EQUITY</b>				
<b>LIABILITIES</b>				
Accounts Payable	\$ 10,838	\$ 2,840	\$ 13,678	\$ 10,316
Reserve for Claim Losses	75,140		75,140	47,545
Accrued Compensated Absences	160,295		160,295	144,349
Due to Other Funds	1,182		1,182	1,416
Bonds Payable Due in One Year	367,860		367,860	417,558
Long Term Debt				
Bonds Payable	2,348		2,348	370,208
Less: Deferred Loss	<u>(29,033)</u>		<u>(29,033)</u>	<u>(43,549)</u>
<b>Total Liabilities</b>	588,630	2,840	591,470	947,843
<b>FUND EQUITY</b>				
Retained Earnings				
Reserved	5,214,245	9,904	5,224,149	4,895,109
Unreserved				
Designated		3,000	3,000	3,000
Undesignated	<u>8,020,624</u>	<u>56,358</u>	<u>8,076,982</u>	<u>7,141,697</u>
<b>Total Fund Equity</b>	<u>13,234,869</u>	<u>69,262</u>	<u>13,304,131</u>	<u>12,039,806</u>
<b>Total Liabilities and Fund Equity</b>	<u>\$13,823,499</u>	<u>\$ 72,102</u>	<u>\$13,895,601</u>	<u>\$12,987,649</u>

The accompanying notes are an integral part of these financial statements.

CITY OF FRANKFORT  
 COMBINING STATEMENTS OF REVENUES, EXPENSES AND  
 CHANGES IN RETAINED EARNINGS  
 ENTERPRISE FUND AND DISCRETELY PRESENTED COMPONENT UNIT  
 June 30, 1998 and 1997

	Sewer	Component Unit  Tourist Commission	TOTAL Reporting Entity (Memorandum Only)	
			June 30, 1998	(Restated) June 30, 1997
<b>OPERATING REVENUES</b>				
User Fees	\$ 3,579,939	\$	\$ 3,579,939	\$ 3,432,842
Tap Fees	84,444		84,444	115,556
Dump Fees	83,148		83,148	108,128
Taxes		278,705	278,705	202,187
Intergovernmental Revenues		11,250	11,250	37,500
Miscellaneous		3,010	3,010	
<b>Total Operating Revenues</b>	<b>3,747,531</b>	<b>292,965</b>	<b>4,040,496</b>	<b>3,896,213</b>
<b>OPERATING EXPENSES</b>				
Personnel	980,229	133,524	1,113,753	1,008,910
Contracted Services	245,502	3,706	249,208	222,656
Materials and Supplies	223,470	1,252	224,722	204,977
Office Expense	4,713	9,259	13,972	13,262
Repairs and Maintenance	216,006	6,557	222,563	661,815
Utilities and Telephone	355,397	10,437	365,834	318,965
Insurance	134,530		134,530	92,833
Gasoline and Travel	16,060	7,296	23,356	25,810
Depreciation Expense	611,110	7,586	618,696	585,851
Other Operating Expenses	4,773		4,773	6,952
Advertising and Promotion		121,576	121,576	91,607
Education and Training	1,315	1,255	2,570	1,727
<b>Total Operating Expenses</b>	<b>2,793,105</b>	<b>302,448</b>	<b>3,095,553</b>	<b>3,235,365</b>
<b>OPERATING INCOME/(LOSS)</b>	<b>954,426</b>	<b>(9,483)</b>	<b>944,943</b>	<b>660,848</b>
<b>NON-OPERATING REVENUES/(EXPENSES)</b>				
Investment Income	385,702	2,157	387,859	332,249
Interest Expense	(64,164)		(64,164)	(87,459)
Amortization	(5,966)		(5,966)	(5,966)
Loss on Disposal of Fixed Assets	(8,919)		(8,919)	(1,180)
<b>Total Non-Operating Revenues/(Expenses)</b>	<b>306,653</b>	<b>2,157</b>	<b>308,810</b>	<b>237,644</b>
<b>Income/(Loss) Before Operating Transfers</b>	<b>1,261,079</b>	<b>(7,326)</b>	<b>1,253,753</b>	<b>898,492</b>
<b>OPERATING TRANSFERS</b>				
Transfer from Other Funds		15,000	15,000	15,000
Transfer to Other Funds		(4,428)	(4,428)	(4,568)
<b>Total Operating Transfers</b>		<b>10,572</b>	<b>10,572</b>	<b>10,432</b>
<b>NET INCOME</b>	<b>1,261,079</b>	<b>3,246</b>	<b>1,264,325</b>	<b>908,924</b>
Retained Earnings, Beginning of Year	11,973,790	66,016	12,039,806	11,130,882
Retained Earnings, End of Year	<u>\$13,234,869</u>	<u>\$ 69,262</u>	<u>\$13,304,131</u>	<u>\$12,039,806</u>

The accompanying notes are an integral part of these financial statements.

CITY OF FRANKFORT  
 COMBINING STATEMENTS OF CASH FLOWS  
 ENTERPRISE FUND AND DISCRETELY PRESENTED COMPONENT UNIT  
 June 30, 1998 and 1997

	Sewer	Component Unit Tourist Commission	TOTAL Reporting Entity (Memorandum Only)	
			June 30, 1998	(Restated) June 30, 1997
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>				
Operating Income/(Loss)	\$ 954,426	\$ (9,483)	\$ 944,943	\$ 660,848
Adjustments to reconcile operating income to net cash provided by operating activities				
Depreciation Expense	611,110	7,586	618,696	585,851
Board Designated Assets				3,000
Net Book Value of Traded Assets		(817)	(817)	
Change in Assets and Liabilities:				
(Increase)/Decrease in Receivables	(8,707)	(2,500)	(11,207)	5
(Increase)/Decrease in Inventory	(52,954)		(52,954)	57,932
(Increase)/Decrease in Deferred Charges	5,966		5,966	5,967
Increase/(Decrease) in Payables	30,505	218	30,723	(7,211)
Increase/(Decrease) in Accrued Compensated Absences	15,946		15,946	(5,967)
Total Adjustments	601,866	4,487	606,353	639,577
Net Cash Provided/(Used) By Operating Activities	1,556,292	(4,996)	1,551,296	1,300,425
<b>CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES</b>				
Interest Expense	(64,164)		(64,164)	(87,459)
Amortization Expense	(5,966)		(5,966)	(5,966)
Operating Transfers - Net		10,572	10,572	10,432
Repayment of Bonds	(417,558)		(417,558)	(401,774)
Increase in Deferred Loss	14,516		14,516	14,517
Net Cash Provided/(Used) For Noncapital Financing Activities	(473,172)	10,572	(462,600)	(470,250)
<b>CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES</b>				
Purchase of Fixed Assets	(644,954)	(979)	(645,933)	(347,682)
Equipment Sold				4,069
Net Cash Provided/(Used) For Capital and Related Financing Activities	(644,954)	(979)	(645,933)	(343,613)
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Net (Increase)/Decrease in Investments	(208,664)		(208,664)	
Investment Income	385,702	2,157	387,859	353,835
Net (Increase)/Decrease in Restricted Assets	(319,136)		(319,136)	(284,832)
Net Cash Provided/(Used) For Investing Activities	(142,098)	2,157	(139,941)	69,003
NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS	296,068	6,754	302,822	555,565
Cash and Cash Equivalents, Beginning of Year	959,375	39,216	998,591	443,026
Cash and Cash Equivalents, End of Year	<u>\$1,255,443</u>	<u>\$ 45,970</u>	<u>\$1,301,413</u>	<u>\$ 998,591</u>

The accompanying notes are an integral part of these financial statements.

CITY OF FRANKFORT  
COMPARATIVE BALANCE SHEETS  
SEWER DEPARTMENT  
June 30, 1998 and 1997

	<u>1998</u>	<u>(Restated)</u> <u>1997</u>
<b>ASSETS</b>		
Cash and Cash Equivalents	\$ 1,255,443	\$ 959,375
Investments	1,333,664	1,125,000
Receivables		
User Fees	295,862	288,233
Accrued Interest	25,926	24,848
Inventory	194,760	141,806
Restricted Assets		
Cash and Cash Equivalents	4,712,535	3,545,690
Investments	499,861	1,335,040
Accrued Interest	1,849	14,379
Deferred Charges	2,022	7,988
Property, Plant and Equipment	12,783,769	12,185,472
Less: Accumulated Depreciation	<u>(7,282,192)</u>	<u>(6,708,820)</u>
<b>Total Assets</b>	<u><b>\$13,823,499</b></u>	<u><b>\$12,919,011</b></u>
<b>LIABILITIES AND FUND EQUITY</b>		
<b>LIABILITIES</b>		
Accounts Payable	\$ 10,838	\$ 7,694
Reserve for Claim Losses	75,140	47,545
Accrued Compensated Absences	160,295	144,349
Due to Other Funds	1,182	1,416
Bonds Payable Due in One Year	367,860	417,558
Long Term Debt		
Bonds Payable	2,348	370,208
Less: Deferred Loss	<u>(29,033)</u>	<u>(43,549)</u>
<b>Total Liabilities</b>	588,630	945,221
<b>FUND EQUITY</b>		
Retained Earnings		
Reserved	5,214,245	4,895,109
Unreserved	<u>8,020,624</u>	<u>7,078,681</u>
<b>Total Fund Equity</b>	<u><b>13,234,869</b></u>	<u><b>11,973,790</b></u>
<b>Total Liabilities and Fund Equity</b>	<u><b>\$13,823,499</b></u>	<u><b>\$12,919,011</b></u>

The accompanying notes are an integral part of these financial statements.

CITY OF FRANKFORT  
 COMPARATIVE STATEMENTS OF REVENUES, EXPENSES AND  
 CHANGES IN RETAINED EARNINGS - SEWER DEPARTMENT  
 For The Years Ended June 30, 1998 and 1997

	<u>1998</u>	<u>(Restated) 1997</u>
<b>REVENUES</b>		
User Fees	\$ 3,579,939	\$ 3,432,842
Tap Fees	84,444	115,556
Dump Fees	<u>83,148</u>	<u>108,128</u>
Total Revenues	3,747,531	3,656,526
<b>EXPENSES</b>		
Personnel	980,229	897,115
Contracted Services	245,502	220,226
Materials and Supplies	223,470	203,833
Office Expense	4,713	5,814
Repairs, Maintenance & Improvements	216,006	655,200
Utilities and Telephone	355,397	307,413
Insurance	134,530	92,833
Gasoline and Travel	16,060	18,922
Depreciation Expense	611,110	578,891
Other Operating Expenses	4,773	6,952
Education and Training	<u>1,315</u>	<u>          </u>
Total Expenses	<u>2,793,105</u>	<u>2,987,199</u>
OPERATING INCOME/(LOSS)	954,426	669,327
<b>NON-OPERATING REVENUES/(EXPENSES)</b>		
Investment Income	385,702	330,746
Interest Expense	(64,164)	(87,459)
Amortization Expense	(5,966)	(5,966)
Loss on Disposal of Fixed Assets	<u>(8,919)</u>	<u>          </u>
Total Non-Operating Revenues/(Expenses)	<u>306,653</u>	<u>237,321</u>
NET INCOME/(LOSS)	1,261,079	906,648
Retained Earnings, Beginning of Year	<u>11,973,790</u>	<u>11,067,142</u>
Retained Earnings, End of Year	<u>\$13,234,869</u>	<u>\$11,973,790</u>

The accompanying notes are an integral part of these financial statements.

CITY OF FRANKFORT  
 COMPARATIVE STATEMENTS OF CASH FLOWS  
 SEWER DEPARTMENT  
 For The Years Ended June 30, 1998 and 1997

	<u>1998</u>	<u>(Restated)</u> <u>1997</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Operating Income/(Loss)	\$ 954,426	\$ 669,327
Adjustments to reconcile operating income to net cash provided by operating activities		
Depreciation expense	611,110	578,891
Change in Assets and Liabilities		
(Increase)/Decrease in Receivables	(8,707)	5
(Increase)/Decrease in Inventory	(52,954)	57,932
(Increase)/Decrease in Deferred Charges	5,966	5,967
Increase/(Decrease) in Payables	30,505	(7,437)
Increase/(Decrease) in Accrued Compensated Absences	<u>15,946</u>	<u>(5,967)</u>
Total Adjustments	<u>601,866</u>	<u>629,391</u>
Net Cash Provided/(Used) By Operating Activities	1,556,292	1,298,718
<b>CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES</b>		
Interest Expense	(64,164)	(87,459)
Amortization Expense	(5,966)	(5,966)
Repayment of Bonds	(417,558)	(401,774)
Increase in Deferred Loss	<u>14,516</u>	<u>14,517</u>
Net Cash Provided/(Used) For Noncapital Financing Activities	(473,172)	(480,682)
<b>CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES</b>		
Purchase of Fixed Assets	<u>(644,954)</u>	<u>(329,339)</u>
Net Cash Provided/(Used) For Capital and Related Financing Activities	(644,954)	(329,339)
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Net (Increase)/Decrease in Investments	(208,664)	
Investment Income	385,702	352,332
Net (Increase)/Decrease in Restricted Assets	<u>(319,136)</u>	<u>(284,832)</u>
Net Cash Provided/(Used) For Investing Activities	<u>(142,098)</u>	<u>67,500</u>
<b>NET INCREASE/(DECREASE) IN CASH AND CASH EQUIVALENTS</b>	296,068	556,197
Cash and Cash Equivalents, Beginning of Year	<u>959,375</u>	<u>403,178</u>
Cash and Cash Equivalents, End of Year	<u>\$1,255,443</u>	<u>\$ 959,375</u>

The accompanying notes are an integral part of these financial statements.